

CITIBANK, N.A.,)
)
 Third-Party Plaintiff,)
)
 vs.)
)
 YAANA TECHNOLOGIES, LLC, a)
 California Corporation, and Does 1 to 10,)
 inclusive,)
)
 Defendants.)

The parties to the above-entitled action, Plaintiff CHRISTIAN MACFARLANE (“Plaintiff”) and Defendant CITIBANK, N.A. (“Citibank”), hereby submit this JOINT STATEMENT pursuant to Magistrate Nathaniel M. Cousins’ Scheduling Order.

ISSUES IN DISPUTE

1. May a party refuse to respond to an entire set of Request for Production, and refuse to meaningfully meet and confer?

Plaintiff’s Position: Citibank claims that it need no longer participate in producing any documents (RFP #2, served August 12, 2021) because its counsel subsequently drafted a proposed “Joint List of Stipulated Facts” that the bank claims resolves all issues in dispute. This unsolicited document was sent to Plaintiff’s counsel *after* Defendant provided only objections and *after* Plaintiff contacted Defendant to meet and confer¹; therefore, it could not constitute any good cause to refuse to respond to discovery. Plaintiff is entitled to all documents sought irrespective of the proposal Defendant offered, which Plaintiff rejected. Whatever the case, (i) the parties have not reached agreement on any facts in Citibank’s proposed document; (ii) Citibank refuses to stipulate to liability, and (iii) making a proposal of facts does not excuse Citibank from producing relevant and responsive documents.

Among other things, RFP #2’s twenty-six requests seek, for example, (i) documents related to “holds” placed on Yaana accounts following service of the levies; (ii) communications between

¹ Counsel met and conferred on October 14, 2021 on several discovery issues. Citibank refused to meaningfully meet and confer on the entirety of Plaintiff’s RFP #2. Plaintiff inquired on multiple occasions (10/14, 11/2, 11/3) as to whether Citibank intended to produce the requested responsive documents. Defendant erroneously believes that it can propose a stipulation in lieu of providing responsive documents which are germane to the case – it is wrong.

1 branch and Legal Operations Department employees, or branch and Yaana employees, related to
2 the levies; (iii) electronic data created by Citibank employees related to Yaana's accounts on the
3 dates of levy; and critically, (iv) documents and data reflecting all transactions, including the time
4 of day of the activity, on Yaana's accounts. Citibank put forth objections (served September 17,
5 2021) to every single request, and refuses to produce any responsive documents. Plaintiff seeks
6 an order compelling the production of all responsive documents and, if necessary, additional time
7 to depose Citibank's PMK regarding information discovered in the new production, plus
8 sanctions for this frivolous conduct.

9 Defendant's Position: The claim that Plaintiff attributes to Citibank is erroneous as Citibank does
10 not claim that it need no longer participate in producing documents because it drafted a joint list
11 of stipulated facts.

12 Citibank does not refuse to respond to an entire set of request for production of documents.
13 Citibank responded to Plaintiff's second set of request for production of documents on September
14 17, 2021.

15 Citibank does not refuse to meaningfully meet and confer. To the contrary, Citibank offered on
16 numerous times (10/20, 10/21, 10/26, 11/2, 11/3 and 11/10) to meet and confer but Plaintiff's
17 counsel refuses to meet and confer.

18 In an effort to avoid unnecessary discovery and conserve parties' resources, Citibank proposed a
19 set of stipulated facts. It is Citibank's position that the only material facts in this case are (1) the
20 dates that Citibank was served with writs of execution and (2) the funds in Yanna's accounts
21 during the relevant timeframes. As that information can be determined by the documents already
22 produced in this case, Citibank continues to believe that a joint stipulation of facts is the most
23 efficient way to proceed. Thereafter on October 14, 2021, Plaintiff's counsel called to discuss
24 various discovery matters wherein defense counsel inquired when Plaintiff would be responding
25 to the proposed stipulated facts. Plaintiff's counsel did not know. Following October 14, Plaintiff
26 has made it clear that he will not agree to any stipulated facts. Defense counsel has offered to
27 meet and confer on numerous occasions; however, Plaintiff's counsel refuses. There has been no
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1 discussion amongst counsel relating to the specific requests in Plaintiff's request for production
2 of documents, set 2.

3 2. May a party refuse to respond to an entire set of document requests included in a Notice
4 of Deposition for an employee witness that has been subpoenaed, and defense counsel will
5 represent at the deposition?

6 Plaintiff's Position: The witness Ruby Chavez is a Citibank employee whom defense counsel has
7 indicated he will represent at deposition. After multiple requests (10/14, 11/2, 11/3) and a meet
8 and confer (10/14/21), on November 5, 2021 Defendant agreed to produce Ms. Chavez for
9 deposition but has made no indication whether it will produce any of the requested documents.
10 Despite multiple requests (10/6, 10/14, 11/2, 11/3, 11/5) including meet and confer
11 correspondence and telephone call, Defendant will not produce any documents subpoenaed from
12 the witness, who was involved in the handling and processing of multiple levies. Defendant has
13 unilaterally determined that no documents requested in the Notice of Deposition are relevant to
14 the matter despite testimony from its PMK that information regarding the handling and processing
15 of particular levies is only known to the individuals involved. Ms. Chavez handled some of the
16 first levies served on Citibank, and Citibank's PMK testified that the individuals who handled the
17 levies would need to be questioned to see what they know about those levies. Defendant put forth
18 objections to every single document request. Plaintiff seeks an order compelling the production
19 of all responsive documents.
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21 Defendant's Position: Citibank has agreed to produce Ms. Chavez for deposition on December
22 21, 2021, a date proposed by Plaintiff's counsel.

23 Citibank responded to the documents sought in the deposition notice. On numerous occasions,
24 defense counsel proposed a meet and confer conference to discuss concerns with the requested
25 documents and to ascertain Plaintiff's position. There has been no discussion regarding the
26 specific document requests. Plaintiff's counsel refuses to meet and confer.
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1 DATED: November 10, 2021

KLEIN, HOCKEL, IEZZA & PATEL P.C.

2
3 /s/ Jonathan Allan Klein

4 _____
JONATHAN ALLAN KLEIN
EILEEN M. RICE
5 NICOLE J. POLICASTRO
6 Attorneys for Plaintiff
CHRISTIAN MACFARLANE

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8 DATED: November 10, 2021

WOLFE & WYMAN LLP.

9
10 /s/ David M. Chute

11 _____
DAVID M. CHUTE
12 Attorneys for Defendant
CITIBANK, N.A.

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14 *Pursuant to Local Rule 5-1(i), the filer attests that all signatories listed, and on whose behalf the
filing is submitted, concurs in the filing's content and have authorized the filing.
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